

APPELLATE COURT
GETS SUBWAY CASE

Will Hear Argument To-day on
Question of Further En-
joining Signing of
Agreements.

M'CALL STUDIES CONTRACTS

Finds Some Charges Far from
True and Says He'll Be Pre-
pared to Act When Final
Decision on Stay
Is Reached.

"Perfect paralysis," to use the term
coined by Judge E. E. McCall, who is
to be the new chairman of the Public
Service Commission, still characterized
the subway situation last night.

The Appellate Division will hear argu-
ment at 2 o'clock this afternoon on
an appeal from an order of Justice
Davis in Part I. Special Term, contin-
uing the injunction obtained by John
J. Hopper to restrain the Public Service
Commission from executing the transit
contracts with the Interborough and
the Brooklyn Rapid Transit Company.

It was on the suggestion of Justice
Davis, who had listened for five hours
to arguments on a motion to vacate the
injunction, that counsel for both sides
agreed to have him continue the stay
without passing on the facts, in order
that the case might reach the higher
court the quicker. Had the Appellate
Division been unable to hear the case
to-day Justice Davis would have
taken the papers and rendered a de-
cision on the facts after a consideration
of a few days. As the case would have
been appealed anyway, the action yester-
day was in the interests of a speedy
final determination.

Question of Appeal a Puzzle.

No decision from the Appellate Divi-
sion is expected before Monday. The
question arose last night as to whether
an appeal could be taken to the Court
of Appeals from that decision. Judge
McCall and counsel for the Public Ser-
vice Commission seemed to think no
appeal would lie. However, it was
acknowledged that as the Appellate
Division would be the first court to
render a decision on the merits of the
case it might, in its discretion, allow
an appeal to the higher court.

Judge McCall has not decided when
he will take the oath of office to suc-
ceed Chairman Wilcox. On Wednes-
day he said he would take the oath
immediately if the stay should be vac-
ated that day. Yesterday he did not
seem to be in such a hurry to take
office, explaining that there was no rea-
son why he should not finish up some
business in hand, as well as permit
Chairman Wilcox to get out of the way
some transit matters other than those
pertaining to the contracts.

The new chairman said last night he
did not see any reason why he should
take his oath to-day, so long as the
stay was in effect. It seems he must
be left to use his own discretion as
to taking the oath. He was asked if
the Governor had asked him to take
office immediately.

"The Governor called me up last
night," he replied, "and wanted to
know if I was not going to take the
oath to-morrow, meaning to-day. I
told him that must be left to my dis-
cretion. I told him that I was keenly
alive to the situation and knew what
was going on all the time, that there
was a stay of proceedings and no
reason for me to hurry in taking office."
He added that he did not say it to
the Governor, but he wanted it under-
stood that he would not let any man
tell him when to take office.

It would seem that the judge is
Continued on third page, fifth column.

PUJO GOES TO ROCKEFELLER

Will Quiz Oil Man on Amalga-
mated Copper Affairs.

Washington, Feb. 6.—Chairman Pujo
of the House "money trust" investigat-
ing committee, with several stenog-
raphers and reporters, joined Samuel
Untermyer, special counsel of the com-
mittee, here to-day and started for
Jekyll Island, Ga., where they will ar-
rive to-morrow and examine William
Rockefeller.

The operations connected with the
organization of the Amalgamated Cop-
per Company will be the basis of most
of the questions.

Brunswick, Ga., Feb. 6.—Chairman
Pujo of the House "money trust" com-
mittee is expected to arrive here at
10:30 o'clock to-morrow morning, for
the examination of William Rocke-
feller at his home on Jekyll Island.
The Pujo party will be taken to the
island, about five miles from Brun-
swick, on a special boat, and will be
entertained at luncheon as guests of
Mr. Rockefeller. The examination is
expected to begin at 2 o'clock in the
afternoon.

GIRLS CHASED BY WALRUS

Win Race in Boat with Animal
They Thought Was Seal.

[By Telegraph to The Tribune.]
Providence, R. I., Feb. 6.—Two young
daughters of Martin Thompson, keeper
of Sandy Point Lighthouse, on an ex-
tremity of Providence Island, in Lower
Narragansett Bay, had a thrilling ex-
perience yesterday in escaping from an
angry walrus, the first of its kind, so
far as known, ever to be seen in these
waters.

Thompson, from the lighthouse, spied
what he thought to be a seal several
hundred yards off shore. His daugh-
ters, Nellie and Bessie, set out in a
rowboat to investigate.

On nearing the creature they found it
to be much larger than a seal and to
have tusks more than two feet long.
Suddenly the animal started for them.
The girls speedily made for shore,
which was reached only a few yards
ahead of the walrus, which, seeing that
the race was lost, headed back for the
open water.

KILLED BEHIND HIS BAR

Saloonkeeper Defies Five Gun-
men and Is Shot.

Another fatal shooting occurred last
night in the notorious "bomb block" in
East 11th street, between First avenue
and Avenue A. Five men, who had
been drinking in the Café Cistermina,
at No. 430 East 11th street, tried to
hold up Giuseppe Mingola, one of the
owners, who was behind the bar, and
when Mingola snatched a bottle at their
heads and reached for his revolver they
shot him dead.

The five men entered a little before
midnight and ranged themselves along
the bar. Mingola, who was behind,
had \$800 in his pockets and about \$200
in the cash register at his back. The
customers finished their drinks, threw
their money on the bar, and when the
proprietor turned to ring up the sales
two of the men drew revolvers and
called to him to throw up his hands.
Mingola took one quick look at the
guns, ducked and grabbed a bottle and
threw it at the head of one of the gun-
men. He missed, and as he turned to
reach his own revolver from a drawer
near by two of the strangers fired.
Both bullets entered his head and killed
him instantly. The police have held
four witnesses to the shooting.

CAN'T BEAT THE SMOKERS

Philadelphians Use Asbestos
Pockets on Trolley Cars.

[By Telegraph to The Tribune.]
Philadelphia, Feb. 6.—Local tailors
are receiving orders from their custom-
ers that at least one asbestos pocket be
placed in every suit and every over-
coat they make, as a result of the new
"no smoking" rule of the Philadelphia
Rapid Transit Company.

A widely known Walnut street tailor
placed a large order for asbestos to-
day, and when asked if he had been
employed to make an asbestos suit he
explained:

"Why, some of my customers are
bringing back their overcoats to have
the asbestos pocket fixed. They want
the pocket as a saving in cigar bills."

WOMAN, 60, GONE OFF PIER

Marks in Snow Point to Suicide
by Drowning.

[By Telegraph to The Tribune.]
Atlantic City, Feb. 6.—Mrs. Emma
Kerner, sixty years old, of No. 4100
North Broad street, Philadelphia, the
wealthy widow of Charles Kerner, mys-
teriously disappeared from the side of
Miss Alice Toolin, her nurse, while on
the Steel Pier this afternoon. Her
pocketbook was found beside the steel
guard rails just beyond the Marine
Hall, five hundred feet from shore.
The rails, covered with snow, bore
marks that led the police to believe
that Mrs. Kerner, fascinated by the
long, sweeping swells, leaped to her
death.

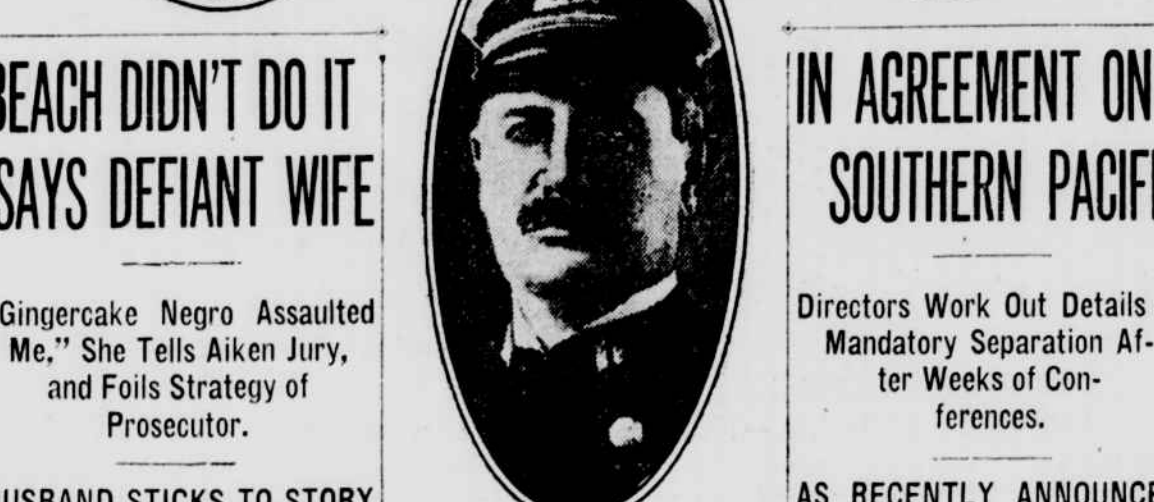
The nurse declares her patient was
frequently attacked by the mania of
self-destruction, and had several times
said she would kill herself at the first
opportunity. Guests at the Hotel Mor-
ton, where Mrs. Kerner had been liv-
ing, joined in the search for her body.

Captain Lambert Parker and the fed-
eral crew, in their non-sinkable life-
boat, dragged the shoals about the pil-
ing and gradually worked out toward
the end of the structure until nightfall.
Two clambers joined in the dragging,
but no trace of the woman was found.

ANTIEDILUVIAN WHISKEY.
Men inclined to drink a pure blend always
ask for Antiediluvian. Layties Bros., N. Y.
—Adv.

POLICE OFFICIALS SUSPENDED BY COMMISSIONER WALDO.

CAPTAIN JAMES F. THOMPSON. INSPECTOR DENNIS F. SWEENEY. CAPTAIN JAMES E. HUSSEY.



CAPTAIN THOMAS W. WALSH.

BEACH DIDN'T DO IT
SAYS DEFIANT WIFE

"Gingercake Negro Assaulted
Me," She Tells Aiken Jury,
and Foils Strategy of
Prosecutor.

HUSBAND STICKS TO STORY

All Evidence Is In and Verdict
Is Looked For To-morrow—
"Mysterious Witness" Who
Hid Behind Bookcase
Blocked by Defence.

[By Telegraph to The Tribune.]
Aiken, S. C., Feb. 6.—The jury has
heard all the evidence in the case of
Frederick O. Beach; it has viewed the
Beach premises, where the state al-
leges he assaulted his wife with intent
to kill, and to-morrow, after listening
to the arguments of counsel and the
charge of the court, it is expected to
give a verdict. The inspection of the
Beach grounds was made at 5 o'clock
this afternoon, immediately following
the testimony of the last witness.

In rebuttal the prosecution disclosed
the mysterious witness, who, hidden
behind a bookcase in Mayor Giles's of-
fice at night, overheard a conversation
between Mr. and Mrs. Beach, but if
Haddon Johnson, a newspaper reporter,
pressed into service as a "human dicta-
graph," as Colonel Henderson, counsel
for the defence, called him, heard Mr.
Beach make any incriminating state-
ment on that occasion, he did not re-
peat it to the jury to-day.

Under the rules of evidence he could
answer the questions of the prosecutor
only affirmatively or negatively. Thus
he could not reply without qualification
to the question of Robert L. Gunter,
the prosecutor, whether Mr. Beach did
not ask Mrs. Beach why she did not in-
volve the brother of Pearl Hampton,
a negro, as her assailant, and whether
Mrs. Beach had not replied that she
"wouldn't put it on an innocent per-
son."

Mrs. Beach Defiant.

Mr. and Mrs. Beach had a strenuous
morning. Mr. Beach's story of the as-
sault on the night of February 26 of
last year and his cross-examination
lasted more than an hour. Mrs. Beach
was kept on the stand even longer.
She made a dramatic witness. Though
for the most part self-contained, at
times she was almost defiant. Not
once did she show signs of nervousness,
and there was a little resentment in
her attitude. Her husband made a
better witness for himself than most
people expected he would. He was
calm and spoke softly, only once or
twice raising his voice. From time to
time he glanced at his wife, and each
seemed to understand the other thor-
oughly. It was plain that the ordeal
was painful to him. If the testimony
of Mr. and Mrs. Beach needed cor-
roboration it was furnished by Miss
Marion Hollins. Both Mr. and Mrs.
Beach asserted his wife's assailant was
a negro.

Arguments will begin with the open-
ing session to-morrow. The defence
will have two hours, during which
Colonel Henderson, Representative
Byrnes and W. Q. Davis will address
the jury. Prosecutor Gunter will make
the closing argument. He probably
will make use of half of the allotted
two hours, and, allowing fifteen min-
utes for Judge Spain's charge, the case
should be in the hands of the jury by
1 o'clock.

Mrs. Beach's Story Emphatic.

Mrs. Beach repeated the story she
has told frequently, only this time she
made it more emphatic. The last time
she saw Mr. Beach's knife, she said, it
contained two blades. With spirit she
answered the direct question whether
or not her husband cut her throat with
it.
"He did not do it!"

Half a dozen witnesses were put on
the stand this afternoon to establish Mr.
Beach's reputation for "peace and good
order." Among them were Thomas
Continued on sixth page, second column.

AUTO VAN SPLINTERED
BY FLIER; THREE DEAD

Engineer's Prompt Work Saves
Whole Train from Wreck
When Trucks Leave Rails.

CRASH AT MILE A MINUTE

Atlantic City Express from
Philadelphia Late—Smashed
Into Huge Motor Truck
Full Speed.

Atlantic City, Feb. 6.—Three men
were instantly killed to-night at the
Shore Road crossing, in Absecon, when
a Pennsylvania Railroad express, going
at a mile a minute, struck an auto-
mobile moving van, upon which the
three men were riding. The fireman
on the engine had his head badly
gashed and narrowly missed being
hurled into the fire box.

The collision shook up the passengers,
but none of them was injured, although
all were more or less badly jolted.

THE DEAD.

CORRELL, George, No. 31 Genesee street,
Trenton.
SHYAC, George, Trenton.
GRACE, Robert C., Trenton.

The auto van belonged to Frederick
Petty, Jr., also of Trenton.

Charles Miltenberger, the fireman,
lives at this place. He was jammed
through the cab window and was pain-
fully cut about the head and face, but
his condition is not considered critical.

The train running on the West Jer-
sey & Sea Shore Railroad left Phila-
delphia shortly before 8 o'clock. Pass-
ing through Absecon, the fireman had
just finished firing up for the spur
into Atlantic City, ten miles away. At
the Shore Road crossing the train
struck the auto van, upon which the
three Trenton men were riding.

The van was hurled high in the air
and the three men were thrown from
their seats. Two of them landed clear
of the train, striking on their heads
and dying almost instantly. Grace was
thrown directly in the path of the train
and was terribly mangled by the
wheels. It was a couple of hours after
the accident before he was identified.

The pilot of the engine was carried
away by the force of the collision, and
the pony truck was lifted from the rails.
The prompt action of the engineer in
bringing the train to a quick stop pos-
sibly saved the entire train from being
wrecked and a number of the passen-
gers being killed or badly injured.

FILM SHOWS MISSING MAN

Wife Sees in Pictures Husband
She Thought Dead.

[By Telegraph to The Tribune.]
Lansing, Mich., Feb. 6.—Positive that
she recognized her husband in a mov-
ing picture film, Mrs. Mary Brownell,
of St. Charles, caused a part of the
film to be cut off and sent to this city,
where a local photographer enlarged it.
Mrs. Brownell's husband disap-
peared ten years ago while on a hunt-
ing trip in the North Woods, and was
given up as dead.

Mrs. Brownell secured a place as
ticket taker in a St. Charles moving
picture house. Two weeks ago a film
of the Republican parade in Chicago
during the national convention was
shown. In the leading rank Mrs.
Brownell saw a figure, whose gestures,
expression and bearing were those of
her lost husband.

GREAT BEAR SPRING WATER.
See per case of 5 glass-stopped bottles.
—Adv.

IN AGREEMENT ON
SOUTHERN PACIFIC

Directors Work Out Details of
Mandatory Separation Af-
ter Weeks of Con-
ferences.

AS RECENTLY ANNOUNCED

Kuhn, Loeb & Co. Likely to
Head Underwriting Syndi-
cate—California Oppo-
sition Probably Not
Insurmountable.

After conferences lasting since the
middle of December, when the first
plan for the separation of the Union
and Southern Pacific railroads was re-
fected by Attorney General Wicker-
sham, the directors of the two systems
finally reached an agreement yester-
day.

As it still must meet with the formal
approval of the Department of Justice,
it cannot be positively asserted that the
plan in its present form will be ulti-
mately adopted. Moreover, it has
further to be sanctioned by the district
court in which the litigation is pend-
ing, and also by the California Railroad
Commission.

The California commission may raise
some objections, as sentiment there is
reported to be opposed to the transfer
of the Central Pacific to the Union Pa-
cific. The history of the State of Cali-
fornia is closely connected with the
growth of the Central Pacific, and it is
believed that any change in the present
ownership will not be looked upon with
favor.

In the main the plan is practically
the same as outlined previously by The
Tribune. It provides:

That the \$128,600,000 Southern Pacific
stock held by the Union Pacific be of-
fered to the stockholders of both com-
panies at par.

Southern Pacific stockholders to be
entitled to one share of Southern Pa-
cific stock for every four shares of Union
Pacific stock now held, the preferred
stock to share equally with the com-
mon.

From the sale of stock \$84,675,000,
less underwriting commission and ex-
penses, to be paid over to the South-
ern Pacific, together with \$4,480,000 of
the Southern Pacific's 4 per cent bonds
and \$14,925,441 in cash.

The sum total of these payments is
\$104,180,941, or the amount that is to
be paid over for the ownership of the
Central Pacific.

Here is the detailed statement made
yesterday by both companies:

The boards of directors of the Union
Pacific Railroad Company and the South-
ern Pacific Company, at meetings held to-
day, approved plans which have been
under consideration by special commit-
tees for several weeks and which have been
worked out with the Attorney General,
subject to the approval of the court, as
follows:

How Plan Was Changed.

The purchase by the Union Pacific of
the entire capital stock of the South-
ern Pacific, consisting of \$67,275,500 par value
of common and \$17,400,000 par value, pre-
ferred, for the sum of \$104,180,941—the cost
at which it stands upon the books of the
Southern Pacific Company—of the amount
\$84,675,000 was to have been paid in
stock of the Southern Pacific Company
held by Union Pacific at par, but legal
difficulties having been found in the way
of such a plan, it was changed, so that the
payment is to be made as follows, viz.:

The entire amount of stock of the
Southern Pacific Company held by Union
Pacific—\$84,675,000 par value—is to be of-
fered to the stockholders, common and
preferred, of the Union Pacific, and stock-
holders of the Southern Pacific Company,
other than the Union Pacific and Oregon
Short Line, for subscription at 95 per
cent and accrued dividends, so that the
plan and agreement will be presented to
the court and commission with the least
possible delay.

Although it is not so stated in the
above explanation, Wall Street is con-
vinced that the plan is a success.

Continued on third page, third column.

CLOSE TO DEPUTY
IN GRAFT CHASE

District Attorney Finds the Trail Revealed by
Walsh Leads to One of Commissioner's
Immediate Associates.

SWEENEY UNDER SUSPENSION

Captains Hussey and Thompson Also—They Formerly
Commanded Same Inspection District—Waldo
Tries to Head Off Expose—Slated
for Dismissal, Is Report.

On the heels of the startling confession of Captain Thomas W.
Walsh, obtained by District Attorney Whitman Wednesday night,
Police Commissioner Waldo suspended from the department yester-
day Inspector Dennis F. Sweeney, the superior officer with whom
Walsh said he divided his graft, and Captains James E. Hussey and
James F. Thompson, each formerly an inspector in the district
which included Walsh's precinct.

Commissioner Waldo made what Mr. Whitman looked upon
as a final effort to balk further disclosures when he sent his new
third deputy, Harry W. Newburger, to Walsh's house again yester-
day afternoon.

Mr. Whitman, himself summoned to Walsh's home for another
conference, found Newburger there, with a stenographer, attempt-
ing to get from Walsh a full story of his accusations, even though
Walsh was then under suspension.

Walsh did not want to give his information to the Police De-
partment, and Newburger was finally forced to leave the room when
Walsh flatly told him that he believed his accusations would be
better handled by Mr. Whitman, as District Attorney of the county.

Mr. Whitman admitted that he had feared some such move
from Police Headquarters, and declared that such a play could re-
sult only in giving warning and advance information on the nature
of the charges against them to the officials of the Police Depart-
ment who would be brought to trial.

At the end of his six-hour conference with Walsh Mr. Whitman
announced that he was going up step by step, and that the first
step was Sweeney. Hussey and Thompson, although accused by
Walsh, are not likely to be brought to book by Mr. Whitman im-
mediately.

Mr. Whitman learned from Walsh that a deputy commissioner
was deeply involved with Sweeney, and he believes that he will
have evidence on which to ask the indictment of that deputy com-
missioner.

The District Attorney continued his work by another long con-
ference with Walsh, which began at 5 o'clock yesterday afternoon, at
Walsh's home, No. 1958 Madison avenue.

Mr. Whitman during the day summoned to his office two police
officers who have held close relations with Sweeney and Walsh—
one a clerical man for the captain, who could corroborate Walsh's
accusation that he paid 50 per cent of all his graft to the inspector,
and the other a plainclothes man for Sweeney, who carried the
\$1,000 from Walsh and Sweeney to Fox, in the Tombs. This was
the money that was used to try to keep George A. Sipp away from
the witness chair.

Commissioner Waldo suspended Captain Walsh yesterday,
after verifying, through District Attorney Whitman, the fact that
Walsh had confessed.

Mayor Gaynor summoned Mr. Waldo to the City Hall at noon.
They held a five-minute conversation, and although neither would
say what occasioned the call, the report spread that the Mayor was
holding off from dismissing his Police Commissioner only until he
could find some strong man who would be willing to take the job.

The Curran aldermanic committee was called for a special ses-
sion to-day. A witness who will give sensational evidence of new
graft is expected to testify.

The same trail that led Mr. Whitman as far as Inspector
Sweeney's door is expected to carry him along to the chair of one
of the deputy commissioners, who has been involved with the Har-
lem inspector in a "graft split," on which indictments are looked
for next week, when the grand jury reconvenes.

CONFESSION SHAKES THE
WHOLE POLICE "SYSTEM"

In the face of the sensational con-
fession secured from Captain Thomas
W. Walsh by District Attorney Whit-
man on Wednesday night, Police Com-
missioner Waldo yesterday suspended
Walsh, Inspector Dennis F. Sweeney
and Captains James E. Hussey and
James F. Thompson.

Thompson and Hussey are reduced
inspectors who were commanders of
the 6th District, which embraces
Walsh's precinct, the East 126th street
station, during parts of the time since
1907 which are included in the period
of grafting operations described in
Walsh's confession as "a fifty-fifty
split with the inspector."

Walsh's confession shook the Police
Department "system" to its core yester-
day. The arrest and conviction of
Lieutenant Becker for the murder of
Rosenthal faded into insignificance so
far as its effect on the "system" is
concerned, compared to the mere pub-
lication of the fact that "Walsh came
across."

Becker's conviction the "system"
viewed with comparative equanimity.
It was the downfall of "one little lieuten-
ant," as the Mayor said, and so far
as the "system" was concerned Becker
was playing practically a lone hand.
With Walsh, however, the situation is
different. He has been part and par-
cel of the "system" for years, and the
disclosures that he will make are feared
as much in Centre street headquarters
as in the inspector's office in Harlem.

In police circles yesterday one of
the day is long enough to be troubled with
a cough. Adamson's Botanic Balsam cures.
—Adv.

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